

nated subpars. (A) and (B) as pars. (1) and (2), respectively, in subsec. (c) substituted references to subsection (b) for references to paragraph (2), in subsec. (d) substituted reference to subsection (a) for reference to paragraph (1), and added subsec. (e).

1978—Par. (1)(B). Pub. L. 95-405 substituted “An exchange shall make public its findings and the reasons for the exchange action in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence therefor, except to the person who is suspended, expelled, or disciplined or denied access, and to the Commission” for “Otherwise the notice and reasons shall be kept confidential”.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-405 effective Oct. 1, 1978, see section 28 of Pub. L. 95-405, set out as a note under section 2 of this title.

#### EFFECTIVE DATE

For effective date of section, see section 418 of Pub. L. 93-463, set out as an Effective Date of 1968 Amendment note under section 2 of this title.

### § 12d. Commission action for noncompliance with export sales reporting requirements

The Commission may, in accordance with the procedures provided for in this chapter, refuse to register, register conditionally, or suspend, place restrictions upon, or revoke the registration of, any person, and may bar for any period as it deems appropriate any person from using or participating in any manner in any market regulated by the Commission, if such person is subject to a final decision or order of any court of competent jurisdiction or agency of the United States finding such person to have knowingly violated any provision of the export sales reporting requirements of section 612c-3<sup>1</sup> of this title, or of any regulation issued thereunder.

(Sept. 21, 1922, ch. 369, §8d, as added Pub. L. 97-444, title II, §226, Jan. 11, 1983, 96 Stat. 2316.)

#### REFERENCES IN TEXT

Section 612c-3 of this title, referred to in text, was repealed by Pub. L. 101-624, title XV, §1578, Nov. 28, 1990, 104 Stat. 3702.

#### EFFECTIVE DATE

Section effective Jan. 11, 1983, see section 239 of Pub. L. 97-444, set out as an Effective Date of 1983 Amendment note under section 2 of this title.

### § 12e. Commission oversight; deficiency orders

#### (a) Assessments

At least once every two years, to the extent practicable, the Commission shall assess whether the trade monitoring system of each contract market satisfies section 7a(b) of this title.

#### (b) Deficiency orders

##### (1) Causes

The Commission may issue a proposed deficiency order in accordance with paragraph (2), or take such other administrative or enforcement action as the Commission determines is appropriate, if, based on its assessment or on other information, the Commission at any time has reason to believe that a contract market's trade monitoring system imple-

mented pursuant to section 7a(b) of this title does not satisfy one or more of the requirements of such section.

#### (2) Contents

A proposed deficiency order issued under this subsection shall specify—

(A) the deficiencies the Commission has reason to believe exist in the trade monitoring system of the contract market and a statement of reasons supporting the Commission's belief that those deficiencies exist;

(B) the corrective action that the Commission believes that the contract market must take and an acceptable timetable for such corrective action; and

(C) a date, not less than twenty days from the date of issuance of the proposed deficiency order, when such deficiency order will become final, subject to subsection (d)<sup>1</sup> of this section.

#### (3) Remedies

On becoming final, the Commission deficiency order may—

(A) require the contract market to—

(i) institute appropriate improvements in its trade monitoring system necessary to correct the deficiencies noted therein;

(ii) satisfy stated objective performance criteria to correct such deficiencies;

(iii) upgrade or reconfigure existing systems for collecting or processing relevant data on trading and trader or broker activity, including, where appropriate, the commitment of additional resources; or

(B) revoke any exemption of the contract market from the regulations prohibiting the privilege of dual trading under section 6j(a) of this title, if the deficiency noted in such deficiency order relates to—

(i) the audit trail system the contract market is required to maintain under paragraph (2), (3), or (4) of section 7a(b) of this title; or

(ii) the prevention, detection, or disciplining of violations attributable to such trading at such contract market, subject to the standards, exceptions, and duration provisions of section 6j(a) of this title; or

(C) take any combination of the actions described in subparagraphs (A) and (B).

#### (4) Removal

If the Commission finds, after notice and opportunity for a hearing on the record prior to such deficiency order becoming final, that a named officer, director, committee member, or employee of such contract market has willfully—

(A) violated this chapter, the rules or regulations of the Commission thereunder, or the rules of such contract market;

(B) abused the authority of such person; or

(C) without reasonable justification or excuse, failed to enforce compliance with any provision of the rules of such contract market by any member or person associated with a member thereof,

<sup>1</sup> See References in Text note below.

<sup>1</sup> So in original. Probably should be subsection “(c)”.